

AMENDED IN SENATE AUGUST 28, 2006
AMENDED IN SENATE AUGUST 24, 2006
AMENDED IN SENATE AUGUST 7, 2006
AMENDED IN SENATE JUNE 19, 2006
AMENDED IN SENATE APRIL 26, 2006
AMENDED IN SENATE APRIL 18, 2006
AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 402

Introduced by Assembly Member Dymally

February 15, 2005

An act to add Sections 2013 and 3022.3 to, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 402, as amended, Dymally. Family law court: marriage.

Existing law establishes procedures related to proceedings for dissolution of marriage, nullity of marriage, and legal separation, as specified.

This bill would enact the Collaborative Family Law Act, which would allow the parties to those proceedings, by written agreement, to utilize a collaborative law process, as specified, rather than an adversarial judicial proceeding to resolve those disputes.

The bill would also require a court to issue a statement explaining the factual and legal basis for its custody decision upon the trial of a

question of fact in a proceeding to determine the custody of a minor, upon the request of either party.

The bill would also require the Judicial Council to create an information sheet for parties involved in child custody and visitation matters, as specified, on or before January 1, 2008.

The bill would also request the Committees on the Judiciary of the Senate and Assembly to study and make recommendations for a comprehensive statute governing the practice of collaborative law, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Collaborative Family Law Act.

3 SEC. 2. Section 2013 is added to the Family Code, to read:

4 2013. (a) If a written agreement is entered into by the parties,
5 the parties may utilize a collaborative law process to resolve any
6 matter governed by this code over which the court is granted
7 jurisdiction pursuant to Section 2000.

8 (b) "Collaborative law process" means the process in which
9 the parties *and* any professionals engaged by the parties to assist
10 them agree in writing to use their best efforts and to make a good
11 faith attempt to resolve disputes related to the family law matters
12 as referenced in subdivision (a) on an agreed basis without
13 resorting to adversary judicial intervention.

14 SEC. 3. Section 3022.3 is added to the Family Code, to read:

15 3022.3. Upon the trial of a question of fact in a proceeding to
16 determine the custody of a minor child, the court shall, upon the
17 request of either party, issue a statement of the decision
18 explaining the factual and legal basis for its decision pursuant to
19 Section 632 of the Code of Civil Procedure.

20 SEC. 4. (a) The Judicial Council shall create an information
21 sheet for parties involved in child custody and visitation matters
22 that informs the parties that they have the right to agree to a
23 custody or visitation arrangement, that if they do not agree, they
24 will be required to participate in child custody mediation, and
25 that if mediation does not result in an agreement, the court will
26 be required to make a determination on the custody issues. The

1 sheet shall also provide information on how to obtain assistance
2 in resolving a custody case, including, but not limited to,
3 information on finding an attorney, information on accessing
4 court based self-help services if they are available, and
5 information regarding other sources of assistance in developing a
6 custodial agreement. The Judicial Council shall adopt this sheet
7 as a statewide form on or before January 1, 2008, and take
8 reasonable steps to ensure that it is distributed statewide and
9 made available to litigants in custody matters.

10 (b) Funding for creating the notice described in this section
11 shall be derived from existing resources.

12 SEC. 5. (a) It is the intent of the Legislature that legislation
13 be enacted during the 2007–08 legislative session to provide a
14 procedural framework for the practice of collaborative law, as
15 described in Section 2 of this act. Towards that end, the
16 Committees on the Judiciary of the Senate and Assembly are
17 requested to convene a working group to study and make
18 recommendations for a comprehensive statute governing the
19 practice of collaborative law.

20 (b) Members of the working group shall include the following:

21 (1) Family law attorneys, including members of the Executive
22 Committee of the Family Law Section of the State Bar.

23 (2) Representatives from the judicial, executive, and
24 legislative branches.

25 (3) Members of the public.

26 (c) The working group is requested to complete its
27 deliberations by January 1, 2007.